



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING
Held on
October 9, 2012

Meeting Location: MassDEP Central Regional Office
627 Main Street
Worcester, MA

Prepared by: T. Wood

[Approved: December 11, 2012]

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of Meeting held on October 9, 2012
3. Application dockets
4. Renewal dockets
5. "Licensed Site Professionals (LSP) Organization" document and "LSP Staff Responsibilities" document

1. **Call to Order:** Elizabeth Callahan called the meeting to order at 1:12 p.m. The other Board members present were Gail Batchelder, Debra Farnsworth, Kirk Franklin, Jack Guswa, Christophe Henry, Debra Listernick, Robert Luhrs, Kelley Race, and Farooq Siddique. The following LSP Board members were absent: none. The LSP Board staff members present were Beverly Coles-Roby, Lynn Read, Al Wyman and Terry Wood. Also present were Wendy Rundle, Executive Director of the LSP Association (LSPA), and Wes Stimpson.
2. **Announcements:** Ms. Callahan announced how sorry she was that Mr. Luhrs had recently announced that he was planning to resign from the Board. She stated that she has very much enjoyed working with him and he has been very helpful to her since she became Board Chair. A number of the other Board members and staff also expressed that they will miss working with Mr. Luhrs.
3. **Agenda:** No changes were made to the agenda.
4. **Minutes:** The Board approved the draft minutes of the meeting of the Board held on July 26, 2012 with minor edits. Ms. Race asked why the names of the LSPs on inactive status were not all named in the minutes. Ms. Wood stated that her understanding of the Board's practice was to list in the agenda for each meeting the number of LSPs on

inactive status and to name any LSPs who had either been added to or removed from the inactive list since the previous meeting. As a result of being on the agenda, this information would then be transferred to the minutes from that meeting. Ms. Race asked that the names of all the LSPs on inactive status be included on the agenda for future Board meetings. She also stated that an LSP had recently informed her that an LSP on inactive status was listed on the Board's Web site as active.

5. **Decisions Regarding Licensing of Applicants:** The staff presented the following Application Dockets:

ID #	Applicant Name/ Company Name	ARP #
8049	Jared K. Urban/ Golder Associates	245
1092	Jason C. Naiden/ National Grid	245
8848	Jedd S. Steinglass/ Credere Associates, LLC	245

A motion was made and seconded to accept the recommendation from Application Review Panel #245, i.e., that the applications submitted by Mr. Urban, Mr. Naiden and Mr. Steinglass be approved and that they be found eligible to take the exam. The motion was approved unanimously.

6. **License Renewal Applications:**

- A. **Renewal Dockets.** The staff presented the following License Renewal Dockets:

Renewal Docket #1
Renewal Date: July 30, 2012
New Renewal Date: October 28, 2012
Have requested a 90-day extension:

LSP #	LSP Name
4900	Christopher Glod
2207	Anthony W. Makovitch
4574	Craig Sasse
6230	Patrick King

Renewal Docket #2

Renewal Date: July 30, 2012

New Renewal Date: July 30, 2015

Has completed all requirements for renewal:

LSP #	First	Middle	Last
1009	Neil		Shifrin
4505	Edward	J.	Weagle
3291	Christopher		Crandell
6389	Sean		Healey
6581	James		Ash

Renewal Docket #3

Renewal Date: October 30, 2012

New Renewal Date: October 30, 2015

Has completed all requirements for renewal:

LSP #	First	Middle	Last
7100	James	R.	Bossange
5269	David	L.	Chaffin

Mr. Henry suggested in the future that all renewal dockets be arranged together on one document rather than as presented today with different renewal dockets on two separate documents.

7. Other Licensing-Related Matters:

- A. New Panel Assignments and Scheduling.** The following Board members were assigned to Application Review Panel # 246: Mr. Franklin, Ms. Listernick and Mr. Luhrs. The following Board members were assigned to Application Review Panel # 247: Ms. Batchelder, Ms. Callahan and Mr. Siddique. The following Board members were assigned to Application Review Panel #248: Mr. Franklin, Mr. Luhrs and Ms. Race.
- B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.
- C. Inactive Status Report.** The staff reported that a total of 7 LSPs are currently on Inactive Status.
- D. Total Number of Active LSPs.** The staff reported that the total number of Active LSPs as of the date of this meeting was 548 as of September 28, 2012.

8. **Examinations:**

A. **New Licensees.** The staff reported that, as of September 21, 2012, the following approved applicant passed the licensing exam as the result of an exam challenge and is now an LSP:

- **Frank Calandra** (#8396)

B. **Dates of Next Exam:** The staff report that the dates for the next administration of the exam are November 14, November 28 and December 5, 2012.

C. **Exam Challenges/ Exam Subcommittee.** Ms. Coles-Roby stated that several people made challenges to the recent exam and John Fitzgerald determined some should be granted. She stated that, as a result of the recent challenges, one question will now be treated as having two correct answers considering there are no replacement questions to substitute. Ms. Coles-Roby also stated that new hardware was in the process of being installed in the computer room where the exams are given. She stated that she was working with Chris Borges of MassDEP to ensure that the exam software works with the new hardware prior to the upcoming examination dates.

Mr. Guswa asked about the person who had recently requested to take the exam sooner than waiting 90 days as required under the Board's regulations. The Board had denied the request at the July meeting but had asked the staff to administer the exam on at least one date in early November and allow the person to take the exam at that time. Ms. Coles-Roby stated that the person was signed up to take the exam.

Ms. Coles-Roby stated that, as highlighted by the fact that there are no available questions in the exam bank to replace the questions that were successfully challenged, the exam subcommittee needs to reconvene and work toward creating new versions of the exam. Mr. Guswa stated that several Board members had volunteered to be on the subcommittee at the July meeting but they had not yet been contacted with potential dates to meet. Ms. Batchelder suggested that the subcommittee meet to determine whether it would be possible to tweak the recently challenged questions that Mr. Fitzgerald agreed should be edited. Ms. Callahan stated this should be done if possible prior to the upcoming exams in November.

Mr. Henry suggested that it would not be good if a crash similar to what happened to two computers in June were to happen again. He suggested that the staff do a full trial-run at least a week before. Ms. Coles-Roby stated that the staff would do a test run prior to exam day. She added that, considering the hardware in the room will be new, any potential crash during the next exam administration would be unrelated to the crash that occurred in June 2012. She added that the exam software company did not have an explanation for what happened in June and that the Board had administered an exam after the crash and everything went fine.

Ms. Callahan asked if Ms. Coles-Roby thought the test-run for the exam will be enough to ensure the upcoming exam administration would be without problems and whether people at MassDEP were aware of the upcoming exam dates. Ms. Coles-Roby said yes and that she was working with April McCabe from MassDEP. She and Ms. McCabe will perform a test-run together.

The Board members next discussed how to deal with Mr. Fitzgerald's recommendations regarding the recent exam challenges. Mr. Luhrs suggested that, as to the question that would now require two of the answers to be treated as correct based on Mr. Fitzgerald's opinion regarding a recent exam challenge, the Board members should also review the question and Mr. Fitzgerald's recommendation. A motion was made to have another Board member review this question prior to the upcoming exam administration.

The Board then more fully discussed the issue of dealing with exam challenges. Ms. Race mentioned that another exam challenge about a year ago had also resulted in a question that currently is being treated as having two correct answers. She asked Ms. Wood to comment on that challenge. Ms. Wood stated that Ms. Race was correct about the previous challenge. Ms. Wood also mentioned that, while she had not reviewed the recent exam challenges for several weeks, her recollection was that the one question may require a more extensive fix than simply counting two responses as correct.

Mr. Luhrs stated that he was not comfortable with having Mr. Fitzgerald be the final word regarding how to deal with exam challenges now that the Board has received a number of them. He stated that maybe Board members should also review the challenges to see if they concur with Mr. Fitzgerald's assessment.

Ms. Callahan stated that it may be difficult for Board members to undertake this review prior to the exams scheduled for November and December. Ms. Batchelder stated that the exam subcommittee should be reconvened now. Mr. Guswa stated that, if one of the exam questions should be reviewed prior to the upcoming exams, he would be happy to review it. The consensus of the Board was that the exam subcommittee should attempt to meet prior to the next exam administration. Ms. Batchelder also suggested that the exam statistics for individual exam questions be updated before the exam subcommittee meets.

The following Board members volunteered to serve on the exam subcommittee: Ms. Batchelder, Mr. Guswa, Ms. Listerick, Ms. Callahan, Mr. Siddique, and Mr. Franklin. Mr. Stimpson also volunteered to assist. The consensus of the Board was to also ask Paul Locke of MassDEP if he would like to work on updating the exam.

Ms. Coles-Roby stated that she would contact Mr. Fitzgerald and Mr. Guswa regarding the one question that might require more extensive editing.

Ms. Wood stated that the Board's current practice is to send a letter to individuals who submit an exam challenge that says the Board will accept what John Fitzgerald says regarding whether the challenge should be granted and, if he denies it, then the individual making the challenge may request that the Board's exam subcommittee consider the challenge. Ms. Wood asked if the Board wanted to alter that letter or the current process. The consensus of the Board was that they were fine with this part of the exam challenge process but believed Board members should review Mr. Fitzgerald's suggested edits to questions.

9. **Continuing Education Committee Report:**

A. Course and Conference Approval Requests. Mr. Henry reported that the Committee had met earlier in the day and had the following course recommendations to present to the full Board:

Sponsor: NGWA

Course Title: Introduction to Groundwater Geochemistry Reaction Modeling #239

Credits Requested: 15 non-DEP Technical Credits

Committee Recommendation: **The Committee recommended that the Board approve the course for 16 non-DEP technical credits rather than the 15 credits the presenter requested. The presenter took out one hour for the four 15-minute breaks. The Board policy has been to remove lunches from the calculation but allow for 15-minute breaks as part of the allowable credits.**

Sponsor: NEWMOA

Course Title: Understanding TSCA and State Requirements for Sites with PCBs

Credits Requested: 5.5 non-DEP Technical Credits

Committee Recommendation: **Approve.**

Sponsor: LSPA

Course Title: Aqueous Organic and Metals Geochemistry

Credits Requested: 8 non-DEP Technical Credits

Committee Recommendation: **Approve.**

Sponsor: MassDEP

Course Title: Siting Renewable Energy on Contaminated Land in Massachusetts

Credits Requested: 4 DEP Regulatory Credits

Committee Recommendation: **Approve on the condition that the LSPs be required to attend all six hours of the course in order to receive the 4 DEP Regulatory Credits.**

Sponsor: LSPA

Course Title: Characterization and Remediation of PCB-Contaminated Sites

Credits Requested: 1 non-DEP Technical Credit
Committee Recommendation: **Approve.**

A motion was made and seconded to accept the Committee's recommendations. The motion was approved unanimously.

B. Other Business: None.

At this point in the Board meeting, Mr. Luhrs stated he had recently attended a MassDEP training regarding a new guidance document. He wondered whether course providers could come up with Web-based exams that would allow LSPs to test out of courses and gain credits. Ms. Batchelder stated that she is open to innovative approaches to continuing education. Ms. Race stated that, if this approach would also reduce costs for LSPs, it might also be in line with the administration's goal to help small business. Ms. Batchelder pointed out that allowing LSPs to test out of courses would require a regulation change because the course credit regulations are all based on contact time. She stated that some of the issues with using exams to test out of courses would be: 1) coming up with an exam that is a reasonable equivalent to the amount of material to be covered in an 8-hour course and, 2) to determine a means to assess whether the person understands the material to be covered in the course. Mr. Siddique agreed that these two issues would have to be grappled with in allowing LSPs to test out of courses. Mr. Luhrs stated that the Board does not need to spend a lot of time on this idea now. He stated that some good hard questions were posed in the MassDEP training course and he thought perhaps they could be used to construct a timed test.

Ms. Rundle stated that the LSPA had recently encountered a related issue. An LSP had signed up to take a Web-based course the same day it was offered and took it. As part of that particular course, participants answer questions and the instructor sends back responses with suggested edits. The LSP made the edits suggested by the course provider to two questions but not to a third. The LSP stated that the requirement was to complete the course not pass the course to the instructor's satisfaction. Mr. Rundle stated that, when she looked back at the LSP Board's course requirements, they say that LSPs will pass the course to the satisfaction of the instructor, but the LSPA had not put that language in the course announcement. She stated that the LSPA will be sure to do so in the future.

Ms. Rundle stated that she would like to be part of future Board conversations regarding innovative approaches to continuing education. Ms. Callahan suggested that this topic be added to the list of potential regulation changes.

10. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day, the Board agreed to forego a Committee report.

11. Personnel, Budget, and Fees

A. Budget. Ms. Coles-Roby stated that the Board staff recently submitted a staff operating budget for fiscal year 2013. She stated that the operating budget included the following:

- 1) Travel expenses: the staff had been allotted \$978 in 2012 and requested \$1475 for 2013;
- 2) Administrative expenses: the staff had been allotted \$2426 in 2012 and requested \$3104 for 2013;
- 3) Operational services: the staff had been allotted \$8488 in 2012 and asked for \$8657 for 2013.

Ms. Cole-Roby stated that the operational services category included the money used by the Board to hire experts for disciplinary cases. Ms. Batchelder asked if more money could be requested for this category up front. Ms. Coles-Roby stated that usually requests greater than ten percent of the amount used in the previous year will not be granted. She added that, if the Board were to need more money in this category before the end of the fiscal year, a request for additional money could be made at that time.

Mr. Luhrs asked what the Board's total operating budget was for 2013. Ms. Coles-Roby stated it was \$11,892 for 2012 and \$13,236 for 2013. Ms. Batchelder asked what the LSP Board's total budget was including salaries. Ms. Coles-Roby stated it is \$385,030.

B. Staff Roles and Responsibilities

Ms. Coles-Roby began a discussion with the Board concerning the document entitled "Licensed Site Professionals (LSP) Organization". Mr. Guswa stated that he was very concerned about the details of the organizational chart as a Board member and an LSP because he thought the Board reported directly to the Executive Office of Energy and Environmental Affairs ("EOEEA") but the chart suggests that the Board first reports to the Commissioner of MassDEP. He asked Ms. Coles-Roby to confirm that this chart was prepared by human resources at EOEEA and asked if maybe the chart dealt with solely budgetary matters as opposed to the relationship of the LSP Board to MassDEP.

Ms. Coles-Roby stated that EOEEA Secretary Sullivan is planning to come to address the Board at an upcoming meeting and the Board can ask him whatever questions they might have. She added that she hopes many LSPs will attend that meeting as well.

Ms. Batchelder suggested that the chart may be meant to show the relationship of the LSP Board staff to MassDEP and EOEEA rather than the relationship of the LSP Board. She suggested some edits to the documents including deleting the reference to the Board as a "Board of Directors" and moving the LSP Board off to the left side of the chart.

Ms. Race asked why the Board would edit something prepared by EOEEA's human resources department. She also said that Ms. Coles-Roby had stated that the chart was a final draft at the Board's meeting in July. Mr. Siddique stated that the Board had requested that Ms. Coles-Roby prepare a document that describes the roles and responsibilities of the members of the Board staff and did not request an organizational chart. He stated that this discussion has digressed from the initial Board request.

Mr. Guswa stated it would not make sense to remove the LSP Board from the chart since all the work that the Board staff does is for the Board.

Ms. Batchelder asked Ms. Coles-Roby the purpose of the organizational chart. Ms. Coles-Roby stated that this document was created in response to the Board's request for a document that describes the Board staff members' roles and responsibilities.

Mr. Luhrs stated that, considering the organizational chart was created by EOEEA's human resources department for the agency's purpose, the Board could make a motion that the Board recognizes that the chart exists and disagrees with the way it is written. He also stated that the Board could prepare its own chart but not recognize this one.

Mr. Siddique stated that the Board simply wanted a document that describes each staff member's roles and responsibilities and this chart does not have anything to do with that request. Ms. Listernick agreed that the Board did not request an organizational chart.

Mr. Guswa stated that the minutes could state that the Board looked at the organizational chart, had some questions regarding it, and looked forward to speak with Secretary Sullivan about it when he comes to an upcoming Board meeting. Mr. Siddique did not think the Board needed to comment on the organizational chart at all. Mr. Luhrs stated that if the organizational chart reflects how Secretary Sullivan views the LSP Board, the Board should have this conversation with him when he visits.

Ms. Coles-Roby next discussed the "LSP Staff Responsibilities" document. She asked for any questions the Board members had about the document. The Board members raised some questions and suggested some edits to Ms. Coles-Roby's position description.

Mr. Henry questioned the bullet on Ms. Coles-Roby's position description that states "hires and supervises Board staff." He stated that the Board members had asked EOEEA for additional staff in the past and were denied and questioned if Ms. Coles-Roby now had that ability. Ms. Callahan stated that, in the event there is a vacancy that has been determined can be filled, Ms. Coles-Roby is responsible for working to identify who should be hired. Ms. Coles-Roby stated that now that the Board staff has a program coordinator, the staff has a full complement and can get the work that needs to be done accomplished.

Mr. Luhrs stated that when Ms. Coles-Roby states that the Board staff has a full complement, it implies that the staff has a smaller workload now than in the past and he

does not believe that is true. He stated that in the past the Board staff had an executive director, a full-time program coordinator, two investigators and two staff attorneys, and now the Board has a half-time program coordinator, and only one investigator. He stated that he does not believe this is a full complement. Ms. Coles-Roby stated that the staff duties have changed and the Board now has fewer cases and fewer appeals. She added that the staff investigator and staff attorneys have had some of their responsibilities reduced when the half-time program coordinator joined the staff. Mr. Luhrs stated that he wanted to reflect the level of staff there had been in the past and that at times that amount of staff had not been sufficient.

12. **Status of Board Member Replacements by Governor:** Mr. Guswa asked Ms. Coles-Roby to explain the process for filling vacancies on the Board. She stated that she works with Ms. Callahan to prepare a vacancy announcement. She added that Ms. Wood had told her that the current Board members are not involved in the process of filling vacancies. She stated that she had written up a notice for the labor slot and had it posted in the LSPA newsletter. Ms. Coles-Roby stated that when she receives resumes, she will schedule interviews. She stated that the candidates will be vetted. The candidates would then be forwarded to EOEEA to be vetted there and then on to the Governor's office. Mr. Guswa suggested that Ms. Coles-Roby add a bullet that describes this process to her position description.

Mr. Siddique stated that people interested in serving on the Board can also submit their applications directly to EOEEA. Mr. Guswa asked whether, if someone applies for an open Board slot directly to EOEEA, the application is sent back to the Board staff for review and comment. Ms. Coles-Roby stated that yes, it would be sent to the Board staff for review.

13. **Scheduling of Next Meeting:** Ms. Coles-Roby stated that she wanted the Board to select two possible dates to give Secretary Sullivan to see if either would work for his schedule. The Board chose either December 4 or December 11 at a location to be determined with December 4th being the preferred date. If Secretary Sullivan cannot make either date, but could meet sometime in the same time window, the Board would see if they could accommodate his schedule. If he cannot meet in that window, the Board would still plan to meet on one of those December dates.

14. **Enter Executive Session:** A motion was made and seconded that the Board enter into Executive Session for the sole purpose of reviewing the draft minutes of the March 27, 2012 Executive Session, the May 15, 2012 Executive Session and the July 26th, 2012 Executive Session and thereafter to adjourn and not return to public session. The motion was approved on a 10-0 roll-call vote. Mr. Franklin conducted a roll-call vote. Each member present voted as follows:

Ms. Batchelder	Aye	Mr. Luhrs	Aye
Ms. Callahan	Aye	Ms. Race	Aye
Mr. Guswa	Aye	Mr. Siddique	Aye
Mr. Henry	Aye		
Ms. Farnsworth	Aye		

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Mr. Franklin	Aye
Ms. Listenick	Aye

At approximately 2:55 p.m., the Board entered into Executive Session.